HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.34565 of 1997

Dated 23th Day of February, 2007

Between:

Smt. Bandi Suryakantham ..
Petitioner

And

The Commissioner,
Survey Settlements & Land Records,
A.P., Hyderabad
and five others ..
Respondents

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O R D E R:

This writ petition is filed to quash the order, dated 10.10.1997 passed by the 1st respondent.

The brief facts of the case are that the Muttadar of Yerragonda, East Godavari District granted dry land of an extent of Hec.4.98 Acres in S.No.9/2, situated at Godugurai village, East Godavari District to the petitioner in the year 1370 Fasli on lease, which continued up to 1380 Fasli (1960 to 1971). After the abolition of the Mutta, the petitioner claimed ryotwari patta in respect of the land in question before the 3rd respondent-Settlement Officer, Peddapuram, who granted ryotwari patta by his order dated 16.8.1974 and since then the petitioner has been in possession and enjoyment of it. Against this order, the 4th respondent filed an appeal before the 2nd respondent-District Collector, who allowed it on 25.3.1995. Aggrieved by the order of the District Collector, the petitioner filed Second Appeal before the 1st respondent-Commissioner of Settlements, who dismissed the appeal by his order, dated 10.10.1997 confirming the order of the 2nd respondent. Against the same, the petitioner has filed this writ petition.

Heard the learned counsel for both the parties.

Admittedly, the 3rd respondent-Settlement Officer, after holding

an enquiry granted ryotwari patta in favour of the petitioner on 16.8.1974 and that order was not questioned by anybody. After a lapse of about 17 years, the 4th respondent i.e. Project Director I.T.D.A., Rampachodavaram preferred an appeal along with a petition to condone the delay, and the appellate authority i.e. the 2nd respondent-District Collector entertained the appeal and passed an order cancelling the assignment made in favour of the petitioner. The said order is behind the back of the petitioner, who was not served with any notice about the appeal preferred by the 4th respondent. Against the same, though the petitioner preferred a Second Appeal, the 1st respondent-Commissioner, Survey Settlements and Land Records, dismissed it confirming the orders passed by the District Collector i.e. the 2nd respondent. First of all, this Court is of the view that the appellate authority i.e. the 2nd respondent-District Collector, East Godavari, ought not to have entertained the appeal preferred by the 4th respondent as it was preferred after a lapse of about 17 years. Even if it is accepted that the 2nd respondent can entertain the appeal, the minimum requirement is that before passing any order adverse to the interest of the petitioner, he should have issued a notice calling upon the petitioner to show cause as to how she is entitled to a ryothwari patta, so that she would have been in a position to explain about her entitlement to the ryothwari patta granted by the 3rd respondent-Settlement Officer. Hence, this Court is of the view that the order passed by the 1st respondent confirming the order of the 2nd respondent is liable to be set aside.

In the result, the writ petition is allowed setting aside the order, dated 10.10.1997 passed by the 1st respondent. However, the 2nd respondent is hereby directed to issue a Show Cause Notice to the

petitioner calling for her explanation, and after considering the objections if any raised by her, decide the appeal preferred by the 4th respondent. Having regard to the fact that this is an old matter of the year 1997, the 2nd respondent is hereby directed to dispose of the appeal expeditiously, and in any case, not later than six weeks from the date of receipt of a copy of this order. No costs.

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23.02.2007

bcj